

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE VIKTOR V. POHORELSKY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: ROBERT L. CAPERS, ESQ.
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Brooklyn, New York 11201
BY: ERIK PAULSEN, ESQ.
Assistant United States Attorney

For the Defendant: QUIJANO & ENNIS
Attorneys for the Defendant -
TIRSO MARTINEZ-SANCHEZ
40 Fulton Street, 23rd floor
New York, New York 10038
BY: PETER E. QUIJANO, ESQ.

Court Reporter: Angela Grant, RPR, CRR
Official Court Reporter

Proceedings recorded by computerized stenography. Transcript produced by Computer-aided Transcription.

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1 (In open court.)

2 (Defendant present in open court.)

3 COURTRoom DEPUTY: All rise. The United States
4 District Court for the Eastern District of New York is now
5 in session. The Honorable VIKTOR V. POHORELSKY is now
6 presiding.

7 (Honorable VIKTOR V. POHORELSKY takes the bench.)

8 COURTRoom DEPUTY: Calling CRIMINAL CAUSE FOR
9 STATUS CONFERENCE in Docket No. 04-CR-874, *United States of*
10 *America against TIRSO MARTINEZ-SANCHEZ.*

11 COURTRoom DEPUTY: Counsel, please state your
12 appearances starting with the government.

13 MR. PAULSEN: Erik Paulsen for the United States
14 government.

15 Good afternoon, Your Honor.

16 COURTRoom DEPUTY: And for the defense.

17 MR. QUIJANO: Good afternoon, Your Honor.

18 For the defendant Tirso Martinez-Sanchez, Peter E.
19 Quijano. Present at counsel table this afternoon also is
20 Jose Antonio de Alba Patino. He's assisting me in
21 Mr. Martinez's defense. He is Mr. Martinez's attorney in
22 Mexico.

23 THE COURT: I note also that the defendant is
24 receiving the assistance of an interpreter, Rosa Olivera, a
25 Spanish interpreter previously sworn to interpret

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1 proceedings here.

2 I understand, Mr. Martinez-Sanchez, that you wish
3 to plead guilty to a criminal offense. The decision to do
4 that is a serious decision and the Court has to be satisfied
5 that you understand the rights you will be giving up by
6 pleading guilty and the consequences or the potential
7 consequences of a guilty plea.

8 THE DEFENDANT: Yes.

9 THE COURT: So I'll discuss those matters with you
10 today and I will ask you questions. The answers to the
11 questions must be given under oath so I'll ask my courtroom
12 deputy now to administer an oath for you to take.

13 COURTROOM DEPUTY: Please stand and raise your
14 right hand.

15 (Defendant sworn.)

16 COURTROOM DEPUTY: Please state your name for the
17 record.

18 THE DEFENDANT: Tirso Martinez-Sanchez.

19 COURTROOM DEPUTY: Thank you. Please have a seat.

20 THE COURT: Mr. Martinez-Sanchez, you've now taken
21 an oath to tell the truth and that means you must do so. If
22 you should lie or otherwise intentionally mislead the Court
23 today, you could be prosecuted for the crime of perjury or
24 the crime of making false statements.

25 Do you understand that?

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1 THE DEFENDANT: Yes, I understand.

2 THE COURT: If there's anything that you do not
3 understand during the proceeding today, please don't
4 hesitate to tell me. I'll be happy to clarify or provide a
5 further explanation about anything that you do not
6 understand completely.

7 Do you understand that?

8 THE DEFENDANT: Yes. Yes. Thank you.

9 THE COURT: How old are you?

10 THE DEFENDANT: Forty-nine years old.

11 THE COURT: And how far did you go with formal
12 schooling?

13 THE DEFENDANT: Second year of secondary school.

14 THE COURT: Have you had any difficulty
15 understanding what your attorneys have explained to you
16 about the charges and about your rights as you face these
17 charges?

18 THE DEFENDANT: No. I've understood it correctly.

19 THE COURT: Are you now or have you recently been
20 under the care of a doctor or a psychiatrist for any reason?

21 THE DEFENDANT: No, not psychiatric, but I take
22 medication on a daily basis for hypertension.

23 THE COURT: And what medication do you take and
24 what is the dosage?

25 THE DEFENDANT: Well, I don't remember the

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1 medication at present because it's different from what I
2 used to take in Mexico, but I take two pills every morning.

3 THE COURT: Are those the only medications you
4 take on a daily basis?

5 THE DEFENDANT: Yes.

6 THE COURT: And you said that was for
7 hypertension?

8 THE DEFENDANT: Yes, hypertension.

9 THE COURT: And have you had any experience where
10 these medications made you unable to understand what was
11 happening around you?

12 THE DEFENDANT: No. No. I've always understood
13 things correctly.

14 THE COURT: As far as you know, they have no
15 effect on your mental capacity?

16 THE DEFENDANT: No. It does not effect me.

17 THE COURT: And aside from those medications, did
18 you take any other pills or drugs or medications in the last
19 24 hours?

20 THE DEFENDANT: No.

21 THE COURT: I know it's not likely, but did you
22 have any alcoholic beverage to drink in the last 24 hours?

23 THE DEFENDANT: No, sir, Your Honor.

24 THE COURT: Have you ever been treated or
25 hospitalized for any kind of substance abuse, any kind of

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1 addiction such as narcotics or alcohol or anything of that
2 nature?

3 THE DEFENDANT: Well, I did undergo therapy for
4 alcoholism and drug addiction.

5 THE COURT: And how long ago was that?

6 THE DEFENDANT: Well, in 2007, in 2007 I was in a
7 program for drug addiction, and from 2007 to 2014 on my
8 arrest I was in AA.

9 THE COURT: And I take it you're now no longer
10 being treated for any substance abuse issue?

11 THE DEFENDANT: No, not now. But I do continue
12 reading the book that is used in AA.

13 THE COURT: Is your mind clear as you sit here
14 now?

15 THE DEFENDANT: Yes, of course. Quite clear.

16 THE COURT: Mr. Quijano, I presume you've
17 discussed with Mr. Martinez-Sanchez the question of entering
18 a guilty plea?

19 MR. QUIJANO: We have, Your Honor.

20 THE COURT: In your view, does he understand the
21 rights that he will be waiving by pleading guilty?

22 MR. QUIJANO: He does, Your Honor.

23 THE COURT: Do you have any question about his
24 competency to proceed?

25 MR. QUIJANO: None whatsoever.

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1 THE COURT: And I understand you are Spanish
2 speaking yourself, is that correct, Mr. Quijano?

3 MR. QUIJANO: That's correct, Your Honor.

4 THE COURT: And you were appointed or retained?

5 MR. QUIJANO: Retained, Your Honor.

6 THE COURT: Mr. Martinez-Sanchez, are you
7 satisfied with the assistance that you've received from your
8 attorney thus far in this case?

9 THE DEFENDANT: Yes, quite satisfied.

10 THE COURT: Do you feel that you need any more
11 time to discuss with him the decision to plead guilty before
12 we proceed further today?

13 THE DEFENDANT: No. No. No.

14 THE COURT: This case is assigned to Judge Korman
15 and that means that Judge Korman will be the judge who will
16 sentence you if you plead guilty and he's also the judge
17 that has to make the final decision about whether to accept
18 your guilty plea. If you wish, you have the absolute right
19 to have Judge Korman listen to the plea instead of me. And
20 if you chose to exercise that right, that is, if you chose
21 to have him listen to the plea rather than me, you could
22 suffer no harm or prejudice or any adverse consequence
23 because you made that decision.

24 Do you understand that?

25 THE DEFENDANT: Yes, I understand correctly. And

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1 I'm very much in agreement with your taking my plea.

2 THE COURT: All right. I do have a document here
3 that appears to be signed by you which indicates that you
4 are willing to allow me to listen to the plea. Let me ask
5 my courtroom deputy to present the document to you, and let
6 me first confirm that that is your signature on this
7 document?

8 THE DEFENDANT: Yes, Your Honor, it is my
9 signature.

10 THE COURT: And did your attorney or someone
11 interpret or translate the document for you before you
12 signed it?

13 THE DEFENDANT: Yes, a version was given to me and
14 it was explained to me correctly.

15 THE COURT: All right. And you did say you are
16 willing to give up your right to have Judge Korman listen to
17 the plea and permit me to listen to the plea; is that
18 correct?

19 THE DEFENDANT: Yes, I'm in agreement.

20 THE COURT: All right. Let me turn to the
21 indictment and to the charge that I understand you're
22 prepared to plead guilty to.

23 First let me confirm that you did receive a copy
24 of the indictment in this case at some point?

25 THE DEFENDANT: Yes, Your Honor. Yes.

1 THE COURT: And did you discuss the three charges
2 in the indictment and the other things in the indictment
3 with your attorney?

4 THE DEFENDANT: Yes, I've spoken several times
5 about it.

6 THE COURT: And do you understand all of the
7 charges in the indictment?

8 THE DEFENDANT: Yes, I understand.

9 THE COURT: Let me focus on Count Three because I
10 understand you're prepared to plead guilty to Count Three of
11 the indictment. And I will go over that in a little more
12 detail.

13 First, let me read Count Three. It reads as
14 follows: In or about and between March 1999 and
15 January 2003, both dates being approximate and inclusive,
16 within the Eastern District of New York and elsewhere, Tirso
17 Martinez-Sanchez, together with others, did knowingly and
18 intentionally distribute a controlled substance, knowing and
19 intending that such controlled substance would be unlawfully
20 imported into the United States, which offense involved five
21 kilograms or more of a substance containing cocaine.

22 Now, if the government were required to prove this
23 offense against you at a trial, the government would have to
24 establish certain essential facts. They're called the
25 elements of the offense and I'll go over them with you. And

1 the government would have to establish each of these beyond
2 a reasonable doubt.

3 First, the government would have to prove that at
4 some point in the period of time between March 1999 and
5 January 2003, you, together with others, distributed a
6 controlled substance, distributed cocaine I should say. And
7 by distributing means transferring cocaine from one person
8 to another, simple concept. The government would have to
9 prove that you knew at the time that this cocaine was being
10 transferred that was, in fact, was occurring, that it was
11 cocaine that was being distributed. The government would
12 have to prove that at the time that this cocaine was being
13 distributed, you knew and intended that that cocaine would
14 ultimately be imported into the United States from a place
15 outside of the United States. The government would have to
16 prove that the amount of cocaine involved in this activity
17 was at least five kilograms of cocaine.

18 And, finally, the government would have to prove
19 that in some way this activity occurred or touched the
20 Eastern District of New York. The Eastern District of New
21 York is a five county area that includes Brooklyn, Queens,
22 Nassau County, Suffolk County and Staten Island. So those
23 are the elements of the offense that the government would
24 have to prove at a trial beyond a reasonable doubt if there
25 was a trial in this case.

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1 Do you understand what I explained about that?

2 THE DEFENDANT: Yes, I understand.

3 THE COURT: Is that a satisfactory explanation of
4 the elements, Mr. Paulsen?

5 MR. PAULSEN: Yes, Your Honor.

6 THE COURT: Now, you have the right to continue --
7 you pleaded not guilty to the offense, I presume.

8 There was an arraignment already on this
9 indictment, counsel?

10 MR. PAULSEN: There was, Your Honor.

11 THE COURT: So you previously pleaded not guilty
12 to this offense. You have the right to continue to plead
13 not guilty even if you're guilty.

14 Do you understand that?

15 THE DEFENDANT: Yes, I understand.

16 THE COURT: If you maintain a plea of not guilty,
17 you have the right to a speedy and public trial before a
18 jury with the assistance of your attorney on all the charges
19 in the indictment including Count Three.

20 You understand that?

21 THE DEFENDANT: Yes, I understand.

22 THE COURT: You have the right to have an attorney
23 represent you not only at the trial but in all other
24 proceedings in connection with this case. And if you could
25 not afford an attorney, the Court would appoint an attorney

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1 to represent you at the Court's expense.

2 Do you understand that?

3 THE DEFENDANT: Yes, I understand.

4 THE COURT: At a trial you would be presumed to be
5 innocent. You would not have to prove that you were
6 innocent. You would not have to prove anything. The
7 government has the burden of proof at a criminal trial, and
8 the government's burden is to produce evidence in court that
9 satisfies the jury unanimously that the defendant is guilty
10 beyond a reasonable doubt. And if the government could not
11 meet that burden of proof at your trial, the jury would have
12 the duty to find you not guilty, even if you were guilty.

13 Do you understand that?

14 THE DEFENDANT: Yes, I understand.

15 THE COURT: At a trial witnesses for the
16 government would have to come to court and testify in your
17 presence. Your attorney could cross examine the witnesses.
18 Your attorney could object to evidence that the government
19 sought to introduce. Your attorney could offer evidence in
20 your behalf and he could compel witnesses to come to court
21 and testify in your behalf.

22 Do you understand that?

23 THE DEFENDANT: Yes, I understand.

24 THE COURT: You would have the right to testify at
25 the trial in your own behalf if you chose to testify. You

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1 could not, however, be required to testify. The choice
2 would be entirely up to you and that's because the
3 Constitution of the United States guarantees that no
4 defendant in a criminal case can be required to testify and
5 say something that might be used to show that he or she is
6 guilty. So if you chose to have a trial but chose not to
7 testify at the trial, the judge would instruct the jury that
8 they could not hold that against you.

9 You understand that?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: Now, if you plead guilty instead of
12 going to trial, you will be giving up your right to a trial.
13 And there will be no trial and you'll have no right to
14 appeal to a higher court on the question of whether or not
15 you're guilty. Judge Korman will enter a judgment of guilty
16 and impose a sentence on you based only on the plea of
17 guilty and without any trial whatsoever.

18 Do you understand that?

19 THE DEFENDANT: Yes, correct. I understand.

20 THE COURT: If you plead guilty, I will have to
21 ask some questions in order to satisfy myself that you are,
22 in fact, guilty of the offense. You'll be required to
23 answer the questions. And in doing that you will be giving
24 up the right I mentioned a few moments ago, that is, the
25 right not to say something that can be used to show that

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1 you're guilty.

2 Do you understand that?

3 THE DEFENDANT: Correct. I understand.

4 THE COURT: So, Mr. Martinez-Sanchez, do you wish
5 to give up your right to a trial and all of the other rights
6 that I've just discussed with you?

7 THE DEFENDANT: Yes, I want to waive them.

8 THE COURT: I understand you have an agreement
9 with the government concerning your plea.

10 THE DEFENDANT: Yes.

11 THE COURT: Have I been provided with a signed
12 copy of the agreement, counsel? Did I overlook it? I don't
13 have it up here.

14 MR. QUIJANO: I'll give you another one.

15 MR. PAULSEN: Your Honor, if it's not with you,
16 it's among the papers here.

17 THE COURT: It is, okay. I have an unsigned copy
18 but I don't --

19 MR. QUIJANO: We have it, Your Honor. I'm sorry.

20 MR. PAULSEN: Thank you, Your Honor.

21 THE COURT: Yes. And I have a copy of -- I have
22 the original I should say of the agreement or what appears
23 to be the agreement before me now. It bears today's date,
24 October 19th, on the last page. And it has the signatures
25 of various people including the signature that appears to be

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1 yours, Mr. Martinez-Sanchez.

2 Let me ask my courtroom deputy to present this to
3 you and confirm that that is, in fact, your signature.

4 Is that your signature?

5 THE DEFENDANT: Yes, it is my signature.

6 THE COURT: Before you signed the agreement, did
7 someone translate it or explain it to you in your language?

8 THE DEFENDANT: Yes, it was explained to me.

9 THE COURT: And did you discuss the various terms
10 of this agreement with your attorney?

11 THE DEFENDANT: Yes, I've spoken with him about
12 it.

13 THE COURT: Do you understand absolutely
14 everything that's written in this agreement?

15 THE DEFENDANT: Yes, I understand it correctly.

16 THE COURT: And except for any promises in writing
17 in this agreement, did anyone make any promise to you to
18 induce you to plead guilty?

19 THE DEFENDANT: No. No one has promised me
20 anything.

21 THE COURT: All right. Lewis, could you get the
22 agreement back.

23 All right. It has been marked. This agreement
24 has been marked now as Exhibit 1 for purposes of today's
25 proceedings.

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1 Today is the 19th, is it not?

2 MR. PAULSEN: Yes, Your Honor.

3 THE COURT: Let me go over with you now the
4 potential punishments you face for this offense. First of
5 all, the Court may impose a term of imprisonment. And the
6 term of imprisonment could be as much as life imprisonment.
7 That's the maximum term.

8 Do you understand that?

9 THE DEFENDANT: Yes, I understand.

10 THE COURT: This offense also carries what's known
11 as a minimum term of imprisonment of ten years. That is
12 that the Court must impose a term of imprisonment of at
13 least ten years.

14 Do you understand that?

15 THE DEFENDANT: Yes, I understand.

16 THE COURT: There are some circumstances that
17 permit a Court to ignore that mandatory minimum, but the
18 Court must make detailed findings about whether those
19 circumstances exist. And if the Court finds that those
20 circumstances do not exist, then the Court will be required
21 to impose a minimum sentence of ten years of imprisonment.

22 Do you understand that?

23 THE DEFENDANT: Yes, I understand.

24 THE COURT: You also face a term of supervised
25 release. The term of supervised release will begin after

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1 you complete whatever term of imprisonment is imposed. The
2 term of supervised release must last for a minimum of five
3 years. And the term of supervised release could last as
4 much as the rest of your life.

5 While serving a term of supervised release, you
6 will be required to comply with conditions that the Court
7 sets. And if you fail to comply with any of the conditions,
8 the Court has the option to sentence you to serve further
9 time in prison. And on each occasion that the Court finds
10 that you have violated one or more conditions of supervised
11 release, the Court may impose an additional term of
12 imprisonment of up to life in prison without giving you
13 credit for any time previously served in prison.

14 Do you understand that?

15 THE DEFENDANT: Yes, I understand.

16 MR. PAULSEN: Your Honor, may I put something on
17 the record?

18 THE COURT: You may.

19 MR. PAULSEN: Your Honor's recitation of this
20 statutory authority is correct. We do note, however, in
21 Footnote 1 that in extradition cases the government will not
22 seek life penalties for any violations for which life will
23 be permitted.

24 THE COURT: I did note that in the agreement,
25 but...

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1 MR. PAULSEN: So the government would not seek it.

2 The Court has the power to --

3 THE COURT: That's what I wanted to confirm, that
4 the Court is not bound by that. It's an undertaking that's
5 given by the Secretary of State, as I understand, in
6 obtaining the extradition. The Court, however, is not bound
7 by that undertaking made by the Secretary of State.

8 Do you understand what we were talking about with
9 respect to that matter?

10 THE DEFENDANT: Yes, I understand.

11 MR. PAULSEN: Thank you, Your Honor.

12 THE COURT: The Court can impose a fine and the
13 fine, the maximum fine, is either \$1 million or twice the
14 gross gain or twice the gross loss. In this case it would
15 be gross gain obtained as a result of the commission of this
16 offense. And it's the greater of either 1 million or twice
17 the gross gain.

18 Has there been any calculation made of the gross
19 gain here, Mr. Paulsen?

20 MR. PAULSEN: There has not, Your Honor.

21 THE COURT: But the fine could be as high as twice
22 whatever the government could prove was gained from the
23 criminal act to which you're pleading guilty.

24 Do you understand that?

25 THE DEFENDANT: Yes, I understand.

1 THE COURT: Separate from the fine, the Court will
2 enter an order of forfeiture which is identified in your
3 agreement.

4 I believe it's a money judgment for \$2 million, is
5 that correct, Mr. Paulsen?

6 MR. PAULSEN: That's correct, Your Honor.

7 THE COURT: And that means that you will be
8 required to forfeit \$2 million to the government, and that's
9 separate from any fine that is imposed.

10 Do you understand that?

11 THE DEFENDANT: Yes, I understand.

12 THE COURT: You will also be required to pay a
13 special assessment of \$100.

14 And, finally, upon conviction for this offense you
15 are subject to what is known as removal deportation. That
16 means that the government, not the attorney's office, the
17 U.S. Attorney's Office, but the other agency of the
18 government will likely seek your deportation and removal to
19 return to your country of citizenship or natural origin.

20 Do you understand that?

21 THE DEFENDANT: Yes, I understand.

22 THE COURT: Is there anything else with respect to
23 punishment that I've overlooked, Mr. Paulsen?

24 MR. PAULSEN: No, Your Honor.

25 THE COURT: Now, in sentencing you, in deciding on

1 the sentence, Judge Korman will have to consult the
2 sentencing guidelines which are some laws that effect the
3 sentencing process.

4 Did you discuss the sentencing guidelines and
5 their operation with your attorney?

6 THE DEFENDANT: Yes. Yes, we've spoken several
7 times about it.

8 THE COURT: All right. Well, I'll go over this
9 briefly.

10 Before you are sentenced, Judge Korman will review
11 and consider various factors with respect to the commission
12 of this offense and your role in the commission of the
13 offense and then make a determination about what guideline
14 level applies to your sentencing situation. The guideline
15 level that he decides to be applicable here will specify a
16 range of imprisonment for your offense.

17 Judge Korman is not required to follow that
18 recommendation of the guidelines. And, indeed, he is
19 required to consider other laws and other factors that
20 effect sentencing before determining what the proper
21 sentence for your case will be. But he must, at a minimum,
22 decide what the applicable guideline level is for your case,
23 what the sentencing recommendation of the guidelines is and
24 then he has to carefully consider whether to follow that
25 recommendation. Whatever sentence he does impose, Judge

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1 Korman is required to articulate sound reasons for the
2 sentence.

3 I will ask the attorneys to tell me what they
4 think the guidelines are likely to say with respect to this
5 offense. But understand that this is just their estimate.
6 Judge Korman will not be bound by that.

7 Mr. Paulsen.

8 MR. PAULSEN: Yes, Your Honor.

9 Based on the quantity of drugs that are involved
10 in this offense, the government estimates the defendant will
11 begin at base offense level of 38, the highest base offense
12 level. He will receive enhancements for possessing
13 dangerous weapons, maintaining drug related premises, as
14 well as being a leader of the activity.

15 Given maximum acceptance of responsibility, we
16 estimate that his adjusted offense level will be 43. The
17 guidelines for a range 43 is life, but as noted before, the
18 government would not seek that penalty.

19 THE COURT: Mr. Quijano, do you have any different
20 guideline calculation?

21 MR. QUIJANO: I wish I did. No, Your Honor.

22 THE COURT: All right. Thank you.

23 With respect to the calculation of your
24 guidelines, Mr. Martinez-Sanchez, I note that there are
25 certain facts in your plea agreement that you have conceded,

1 and these are facts that effect the guideline determination
2 that's made by Judge Korman. So you've conceded that the
3 offense involved at least 50,000 kilograms of cocaine, that
4 you maintained the premises for the purpose of distributing
5 narcotics, and that you were a leader with respect to this
6 distribution.

7 So you've conceded those facts in your plea
8 agreement, and that means you won't be able to challenge
9 those facts when it comes to sentencing. You will not be
10 able to challenge what impact those facts have in
11 determining the guidelines for your case.

12 Do you understand that?

13 THE DEFENDANT: I understand correctly.

14 THE COURT: Now, you have also in your plea
15 agreement agreed not to appeal any sentence that's imposed
16 if in the event that the sentence calls for a term of
17 imprisonment of life or less. So that means that basically
18 you will not have, as I understand it, any right to appeal
19 effectively in this case regardless of the sentence that's
20 imposed. You do retain the right to assert that you
21 received ineffective assistance of counsel. So you do
22 retain that right, but that is the only right to challenge
23 your sentence that I see in this case.

24 Is that a fair description, Mr. Paulsen?

25 MR. PAULSEN: Yes, Your Honor, that's accurate.

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1 THE COURT: Mr. Quijano?

2 MR. QUIJANO: Yes, Your Honor.

3 THE COURT: Do you understand that,

4 Mr. Martinez-Sanchez?

5 THE DEFENDANT: Yes, I understand.

6 THE COURT: I should point out that, and this is a
7 fine distinction, but you not only give up your right to
8 appeal, but you've given up your right in any way to attack
9 the sentence by means of other proceedings such as, for
10 instance, what's known as habeas corpus proceedings. So,
11 essentially, the sentence that's imposed on you is final
12 except for the one right you do retain to claim ineffective
13 assistance of counsel.

14 Do you understand that?

15 THE DEFENDANT: Yes, I understand.

16 THE COURT: Mr. Martinez-Sanchez, do you have any
17 questions you'd like to ask me about the charges, about your
18 rights or about anything else related to this matter that
19 may not be clear?

20 THE DEFENDANT: No. I'm satisfied.

21 THE COURT: Mr. Quijano, is there anything else I
22 should review with your client before proceeding?

23 MR. QUIJANO: No, Your Honor.

24 THE COURT: Mr. Paulsen?

25 MR. PAULSEN: No, Your Honor. I think that was

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1 very thorough.

2 THE COURT: Mr. Quijano, do you know of any reason
3 why Mr. Martinez-Sanchez should not plead guilty to the
4 offense?

5 MR. QUIJANO: No, Your Honor.

6 THE COURT: Are you aware of any viable legal, as
7 distinguished from factual, offense to the charge?

8 MR. QUIJANO: No, Your Honor.

9 THE COURT: Mr. Martinez-Sanchez, are you ready to
10 plead?

11 THE DEFENDANT: Ready.

12 THE COURT: How do you plead to the charge
13 contained in Count Three of the indictment, guilty or not
14 guilty?

15 THE DEFENDANT: Yes, guilty.

16 THE COURT: Are you making this plea of guilty
17 voluntarily and of your own free will?

18 THE DEFENDANT: Yes, of my own free will.

19 THE COURT: Has anyone threatened you or forced
20 you to plead guilty?

21 THE DEFENDANT: No.

22 THE COURT: Other than the plea agreement that we
23 discussed earlier, did anyone make any promise to you that
24 caused you to plead guilty?

25 THE DEFENDANT: No.

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1 THE COURT: Has anyone made any promise to you
2 about the sentence you will receive?

3 THE DEFENDANT: No.

4 THE COURT: Could you tell me, in your own words,
5 what you did in committing the offense charged in Count
6 Three?

7 THE DEFENDANT: Approximately from 1984 to 2007 I
8 agreed with other people to distribute and import
9 intentionally several kilos of cocaine from Mexico to the
10 United States. For instance, approximately in the year
11 2000, I devised and managed a system that would use train
12 routes, existing train routes, train routes that we built
13 and warehouses to store kilograms of cocaine from Mexico to
14 different parts of the United States. This included Los
15 Angeles, Chicago and Brooklyn, New York. I knew that doing
16 this was illegal.

17 MR. QUIJANO: May I have a moment, Your Honor?

18 THE COURT: Yes.

19 (Brief pause.)

20 MR. QUIJANO: Your Honor, during the allocution I
21 believe in translation after Mr. Martinez talked about the
22 warehouses and storing of cocaine in the warehouses, he also
23 said and to transport the cocaine into the United States. I
24 think the word "transport" was left out.

25 THE COURT: All right. I'll just confirm that

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1 with Mr. Martinez-Sanchez.

2 As I understand it, you oversaw and administered a
3 scheme for transporting and storing cocaine; is that
4 correct?

5 THE DEFENDANT: It's correct.

6 THE COURT: And the transportation included the
7 transportation of cocaine from Mexico to points in the
8 United States?

9 THE DEFENDANT: Yes, that's correct.

10 THE COURT: And the amount of cocaine that was
11 transported exceeded five kilograms; is that correct?

12 THE DEFENDANT: Yes, that's correct.

13 THE COURT: And by transported I mean transported
14 from Mexico into the United States.

15 THE DEFENDANT: Yes.

16 THE COURT: Is there anything else about which I
17 should inquire, Mr. Paulsen?

18 MR. PAULSEN: No, Your Honor, the government is
19 content.

20 THE COURT: Mr. Quijano?

21 MR. QUIJANO: No, Your Honor. Thank you.

22 THE COURT: Based on the information provided to
23 me today I find that Mr. Martinez-Sanchez is acting
24 voluntarily, that he fully understands the charge, his
25 rights and the consequences of his plea. I find also that

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1 there's a factual basis for the plea, and, therefore,
2 recommend that Judge Korman accept Mr. Martinez-Sanchez's
3 plea of guilty to Count Three of the indictment.

4 Mr. Hugh, do you know if Judge Korman has yet set
5 a date for sentencing?

6 COURTRoom DEPUTY: Yes. Judge Korman sets
7 April 12th of next year, 2017, at 2 o'clock in the
8 afternoon.

9 THE COURT: So April 12th of 2017 is some months
10 off now but is the date now set for your sentencing,
11 Mr. Martinez-Sanchez.

12 Before your sentence, the Probation Department of
13 this Court will conduct a presentence investigation and
14 issue a Presentence Report. You'll get a copy of the
15 report, your attorney will get a copy, as well as the
16 attorney for the government and you'll have the opportunity
17 to tell the Court about any mistakes or omissions from the
18 report that are important.

19 In order to prepare that report, a probation
20 officer will interview you. You have the right to have your
21 attorney present with you during that interview. You should
22 keep in mind that the preparation of this report and the
23 information that's provided in this report is typically the
24 principal way that the Court finds out about a defendant's
25 background and other personal circumstances so that those

1 can be considered at the time of sentencing, and that means
2 it's often in the interest of the defendant to cooperate with
3 the probation office in that process. You should, of course,
4 listen to your attorney's advice with respect to that.

5 Is there any other matter we should address today
6 before adjourning, counsel?

7 MR. PAULSEN: There is not, Your Honor.

8 MR. QUIJANO: No, Your Honor. Thank you.

9 THE COURT: I will return to counsel for the
10 government the plea agreement that was marked here for any
11 further proceedings where they may be necessary. It may be
12 necessary.

13 MR. PAULSEN: Thank you, Your Honor.

14 THE COURT: And we are now adjourned.

15 MR. PAULSEN: Thank you.

16 THE DEFENDANT: Thank you, Your Honor.

17 (Proceedings adjourned at 1:12 p.m.)

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ANGELA GRANT, RPR, CRR

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter
/s/ Angela Grant July 14, 2017